



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

DIVISION OF HEALTH CARE FINANCE AND POLICY

Two Boylston Street • Boston, MA 02116-4737
(617) 988-3100 • FAX (617) 727-7662 • TTY (617) 988-3175
www.mass.gov/dhcfp

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

TIMOTHY MURPHY
SECRETARY

AMY M. LISCHKO
COMMISSIONER

ADMINISTRATIVE BULLETIN 06 – 06
NURSING FACILITY USER FEE UPDATE, SFY 2007
JUNE 9, 2006

This bulletin outlines changes to the nursing facility user fee for fiscal year 2007. These changes reflect a legislatively mandated waiver approved by the federal Center for Medicare and Medicaid Services on June 6, 2006. As explained below, the waiver requires the Commonwealth to establish four separate classes of nursing facilities for purposes of assessing the nursing facility user fee. The Division plans to promulgate the changes outlined below by emergency regulation effective July 1, 2006. The Division will schedule a public hearing on the proposed changes. The Division will also issue amended MassHealth rates to reflect the changes in the user fee.

Background of Nursing Facility User Fee Waiver

M.G.L. c. 118G, § 25 requires the Division to assess a user fee on all non-Medicare nursing facility patient days. The statute requires the Division to collect \$145 million annually through assessment of a broad-based fee determined in accordance with federal law at 42 U.S.C. § 1396b(w)(3)(b). In the SFY 2005 budget (chapter 149 of the acts of 2004), the Legislature directed the Executive Office of Health and Human Services (EHS) to apply for a waiver from the federal requirements by September 1, 2004. Section 255 required EHS to submit a waiver to mitigate the impact of the user fee on nursing facilities with fewer than 100 beds licensed before 1965 that do not participate in the Medicare or Medicaid programs. Section 256 required EHS to submit a waiver to mitigate the impact of the user fee on non-profit continuing care retirement communities, non-profit residential care facilities, and, if necessary to meet federal waiver requirements, non-profit facilities with a large Medicaid census. EHS submitted a waiver that met these legislative requirements and received approval from CMS on June 6, 2006. The terms of the federal waiver are outlined below.

Explanation of User Fee Changes Effective July 1, 2006

Effective July 1, 2006, there will be four classes of nursing facilities, based on the criteria outlined below. The per diem user fee payment will vary by class. The fees listed below were calculated by the Division to comply with both the waiver requirements and statutory mandate to collect \$145 million annually. Enclosed with this bulletin is a list of all facilities and their assigned classes.

If you have questions regarding this planned change, please contact the Division at (800) 609-7232.

NURSING FACILITY USER FEE
Effective July 1, 2006

Facility Class	Criteria	User Fee Effective 7/1/06
Class I	All facilities that do not qualify for classes 2 – 4.	\$11.30
Class II	Non-profit continuing care retirement communities and residential care facilities.	\$1.13
Class III	Non-profit nursing facilities that participate in the Medicaid program and that provided more than 66,000 annual Medicaid bed days in FY2005.	\$1.13
Class IV	Facilities that: (1) have 100 or fewer licensed beds; and (2) were established and licensed in Massachusetts prior to the enactment of the Health Insurance for the Aged Act, Pub. L. 89-97, Title I, 79 Stat. 290, and the Medicaid Act, Pub. L. 89-97, Title I, §121(a), 79 Stat. 343, on July 30, 1965; and (3) are not participating in either of the Medicare or Medicaid programs. In addition, Class IV includes homes located in Essex, Middlesex, and Suffolk counties that meet criteria (1) and (2) above but that do participate in the Medicaid program.	\$0.00